

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

DARRELL JOHNSON,

Plaintiff,

v.

CAROL PORTER *et al.*,

Defendants.

Case No. C06-5342RBL

ORDER DENYING APPOINTMENT
OF COUNSEL AND WARNING
PLAINTIFF

This 42 U.S.C. § 1983 Civil Rights action has been referred to the undersigned Magistrate Judge pursuant to Title 28 U.S.C. § 636(b)(1)(B). Plaintiff was given leave to proceed *in forma pauperis*. The court reviewed the complaint and found it deficient. Plaintiff was ordered to file an amended complaint.(Dkt. # 9). Plaintiff has received extensions of time to file an amended complaint. An amended complaint is due on or before January 26, 2007 (Dkt. # 16).

Since the inception of this action plaintiff has filed at lease three motions asking counsel be appointed in his case. (Dkt. # 10, 12, and 15). As the court has previously explained, there is no right to have counsel appointed in cases brought under 42 U.S.C. § 1983. Although the court, under 28 U.S.C. § 1915(d), can request counsel to represent a party proceeding *in forma pauperis*, the court may do so only in exceptional circumstances. Wilborn v. Escalderon, 789 F.2d 1328, 1331 (9th Cir. 1986); Franklin v. Murphy, 745 F.2d 1221, 1236 (9th Cir. 1984); Aldabe v. Aldabe, 616

ORDER

1 F.2d 1089 (9th Cir. 1980). A finding of exceptional circumstances requires an evaluation of both the
2 likelihood of success on the merits and the ability of the plaintiff to articulate his claims *pro se* in light
3 of the complexity of the legal issues involved. Wilborn, 789 F.2d at 1331.

4 Plaintiff has made no showing of likelihood of success on the merits, although the facts in his
5 complaint are sufficient to state a claim. The current complaint is deficient because parties are not
6 named and the facts are not tied to the actions of any named party. Plaintiff has articulated his facts
7 well. Accordingly, Plaintiff's third motion to appoint counsel (Dkt. # 15) is **DENIED**.

8 Plaintiff is warned that repetitive motions, once a court has entered a ruling, are improper.
9 No further motion for appointment of counsel will be considered unless plaintiff specifically
10 addresses the standard and shows exceptional circumstances and a likelihood of success on the
11 merits.

12 The Clerk is directed to send plaintiff a copy of this Order.

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14 DATED this 5th day of December, 2006.

15 /s/ J. Kelley Arnold
16 J. Kelley Arnold
17 United States Magistrate Judge
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28 ORDER